UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,175	09/29/2000	Orna Etzion	42390.P7512	1540

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EXAMINER
MEONSKE, TONIA L

ART UNIT	PAPER NUMBER
2181	

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/676,175	ETZION, ORNA
	Examiner	Art Unit
	Tonia L. Meonske	2181

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 April 2006*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-6,9-11 and 14-21* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-6,9-11 and 14-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

[signature]
FRITZ FLEMING
Supervisory PRIMARY EXAMINER 6/23/2006
GROUP 2100
AU 2181

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1, 4-6, 9-11, and 14-21 are rejected under 35 U.S.C. 102(e) as being clearly

anticipated by Rozas et al., US Patent 6,725,361, cited by Examiner on June 1, 2004 (herein after

referred to as Rozas et al.). The rejections as set forth in the last office action mailed on January

24, 2006 are respectfully maintained and included below.

3.   Referring to claims 1, 6, and 11, Rozas et al. have taught

a.   translating a first block of instructions executable in a first processor architecture,

into a translated first block of instructions executable in a second processor architecture

(abstract, column 4, line 31-column 5, line 32, A block of instructions are translated to

emulate operations of a floating point stack.), said translated first block of instructions

operating with a stack of data entry positions (abstract, column 4, line 31-column 5, line

32, The instructions emulate registers in a floating point stack.); and

b.   during the translating, generating an expected Top of Stack (TOS) position in said

stack for said first block of instructions (column 5, lines 32-40, column 8, line 66-column

9, line 18, The assumed top-of-stack value is generated.); and

c.   during the translating adding at least one instruction to said translated first block

of instructions to determine if said first expected TOS is equal to an actual TOS position

in said stack at a time of executing said translated first block of instructions (column 9,

lines 5-18, column 10 line 66-colimn 11, line 10, The assumed value is compared with

the actual value.);

d.   wherein said at least one instruction branches to correction code if said expected

TOS is not equal to said actual TOS (column 9, lines 5-38, column 11, lines 3-23, The

processor branches back to the beginning of the translation.), and

e.   wherein said correction code to generate a delta of said expected TOS and said

actual TOS and to adjust said stack for said first block of instructions by the delta at the

time of executing said translated first block of instructions (Column 12, lines 8-12, 45-54,

and 59-65, column 11, lines 3-10, column 10, lines 55-58, column 9, lines 32-38, The

instruction translations are dynamic. Initial translations are preformed and saved. Those

translations are used over and over again by adjusting the TOS values at runtime. The

stack is adjusted at the time of executing the instructions.).

4.   Referring to claims 4, 9, and 14, Rozas et al. have taught the method and system of

claims 1, 6, and 11, as described above, and wherein determining if execution of instruction in

said first block of instructions changes the actual TOS (Column 7, line 3-column 8, line 12).

5.   Referring to claims 5, 10, and 15, Rozas et al. have taught the method and system of

claims 4, 9, and 14 and in response to determining execution of instructions in said first block of

instructions changes the actual TOS, adding an instruction to an end of the first block of

instructions to update the actual to TOS (column 7, line 3- column 8, line 12, FTEN).

6.   Referring to claims 16, 17, and 18, Rozas et al. have taught the method and system of

claims 1, 6, and 11, as described above, and wherein to adjust said stack for said first block of

code by the delta includes rotating said stack by the delta (column 9, lines 63-67).

7.   Referring to claims 19, 20, and 21, Rozas et al. have taught the method and system of

claims 5, 10, and 15, as described above, and wherein to update the actual TOS results in an

expected TOS corresponding to a second block of instructions matching the actual TOS, said

second block of instructions following said first block of instructions in execution and further

operating with said stack (column 6, lines 58-column 8, line11, At the end of an instruction

sequence the TOS value is updated before the following block of instructions are executed.).

Response to Arguments

8.   Applicant's arguments filed April 10, 2006 have been fully considered but they are not

persuasive.

9.   On pages 8 and 9, Applicant argues in essence:

> *"(Rozas at col. 9, 11. 10-16) This cited portion of Rozas does not disclose the cited*
> *feature of claim 1 because it relies on a completely new translation to be utilized. The*
> *cited feature of claim 1, in comparison, adds an instruction prior to the translation to*
> *check for equality between expected and actual TOSs, and branches to correction code to*
> *update the expected TOS. It then proceeds to execute the translated block of instructions*
> *without having to roll back to a previous state and utilize a new translation. In*
> *comparison to Rozas, the cited feature of claim 1 does not roll back to a state existing at*
> *the beginning of the translations or utilize a new translation. There is no disclosure or*
> *suggestion in Rozas of an instruction in the translation which branches to correction*
> *code during execution of the translation in order to correct an expected TOS and*
> *proceeding to execute the original translation after the correction. "*

However, Applicant is arguing a feature of the invention not specifically stated in the

claim language, which is improper. Claimed subject matter, not the specification, is the

measure of invention. Limitations in the specification cannot be read into the claims for

the purpose of avoiding the prior art. In re Self, 213 USPQ 1,5 (CCPA 1982); In re

Priest, 199 USPQ 11,15 (CCPA 1978).

> *"It is the claims that measure the invention." SRI Int'l v. Matshshita Elec. Corp., 775 F.2d 1107, 1121, 227 USPQ 577, 585 (Fed. Cir. 1985) (en banc).*

> *"The invention disclosed in Hiniker's written description may be outstanding in its field, but the name of the game is the claim." In re Hiniker Co., 47 USPQ2d 1523, 1529 (Fed. Cir. 1998).*

> *"[A]s an initial matter, the PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant's specification." In re Morris, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997).*

> *"limitations appearing in the specification will not be read into the claims, and ... interpreting what is meant by a word in a claim 'is not to be confused with adding an extraneous limitation appearing in the specification, which is improper'." Intervet Am., v. Kee-Vet Labs., 12 USPQ2d 1474, 1476 (Fed. Cir. 1989)(citation omitted).*

> *"it is entirely proper to use the specification to interpret what the patentee meant by a word or phrase in the claim, ... this is not to be confused with adding an extraneous limitation appearing in the specification, which is improper. By 'extraneous,' we mean a limitation read into a claim from the specification wholly apart from any need to interpret ... particular words or phrases in the claim." In re Paulsen, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994) (citation omitted).*

In this case, Applicant has not claimed: *"The cited feature of claim 1, in comparison,*

adds an instruction prior to the translation to check for equality between expected and

actual TOSs, and branches to correction code to update the expected TOS." The claim

specifically recites adding the at least one instruction during the translating, not prior to

the translation. See claim 1, line 7.

Furthermore, Applicant has not claimed: *"an instruction in the translation which*

branches to correction code during execution of the translation in order to correct an

expected TOS and <u>proceeding to execute the original translation after the correction</u>".

Applicant has not claimed actually executing the translated instructions. Applicant has

merely claimed *"adjusting a stack for said first block of instruction by delta <u>at the time of</u>*

<u>executing</u> said translated first block of instructions." Doing something when instructions

are about to be executed is different than doing something during instruction execution.

The claims do not require the processor to proceed to execute the original translation after

the correction as suggested by Applicant's arguments above.

Therefore, the above argument is moot.

10.   On page 9, Applicant argues in essence: .

> *"The cited portion of Rozas does not disclose the feature of claim 1 because it is comparing and altering two predictions; rather than comparing a prediction with an actual top-of-stack as provided by claim 1."*

However, Applicant is directed to column 9, lines 5-18 in Rozas. Two predictions are not

compared. A prediction is in fact compared with an actual top-of-stack. Therefore this

argument is moot.

11.   On page 9, Applicant argues in essence:

> *"Furthermore, similar to the discussed portion of Rozas above, this cited portion of Rozas also recites rolling back and restarting a translation. This is not the same as adding an instruction to branch to correction code before a translation ever executes, adjusting an expected TOS, and then executing the translation without restarting the translation."*

However, applicant is attempting to argue limitations that are not specifically recited in
the claims, which is improper, as stated above.

Claim 1 does not state *"adding an instruction to branch to correction code <u>before</u> a*

translation ever executes". The claims are broad enough that the instruction could be

added before or during translation execution to still read on the claims. Applicant has not

specifically excluded the translating and executing steps from each other. As the claims

are worded they may be performed at the same time.

Furthermore, claim 1 does not specifically state *executing the translation without*

restarting the translation. The translation in Rozas may in fact be rolled back before

actually executing the translated instructions, in order for Rozas to read on the claims.

The claims do not specifically exclude restarting and/or rolling back the translation to

correct the translation. Therefore this argument is moot.

Conclusion

12.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

13.   A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

14.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Tonia L. Meonske whose telephone number is (571) 272-4170.

The examiner can normally be reached on Monday-Friday, with every other Friday off.

15.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Fritz Fleming can be reached on (571) 272-4145. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

16.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

tlm

Supervisory

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